Single Bench

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION NO. 3933 /2004

UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

PETITIONER : Satish Agrawal S/o Lt. P.A. Agrawal Agrawal aged about 37 Yrs. resident of Post Office Sagar Nursing Home Gali, Korba (C.G.)

No. 3928/10/8 Presented by Shri ... dated 16/12/04

VERSUSU

RESPONDENTS :

(1) State of Chhattisgarh through Secretary, Department of Transport, D.K.S. Bhawan Raipur (Chattisgarh)

(2) Regional Transport Officer, Raipur (Chhattisgarh)

(3) Regional Sales Manager, S.E.C.L., Korba Area,
District- Korba (Chhattisgarh)

A.F.R.

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HIGH COURT OF JUDICATURE CHHATTISGARH: BILASPUR

SINGLE BENCH : HON'BLE SHRI S.R. NAYAK, CJ

Writ Petition No. 944 of 2006

PETITIONER Ravi Ranjan Kumar S/o Shri Uday Kumar aged about 28 years R/o Bankimongra Korba District Korba C.G.

VERSUS

RESPONDENTS

1. State of Chhattisgarh Through the Secretary, Department of Transport, DKS Bhawan, Raipur, C.G.
2. The Regional Transport Office, Raipur, C.G.
3. The Regional Sales Manager SECL, Korba Area District Korba C.G.
4. The Regional Sales Manager SECL Gevra Area, district Korba, C.G.

Writ Petition No. 2860 of 2004

PETITIONER M/s Sarvamangala Construction Company, through Proprietor Rajkumar Agrawal, S/o Chutelal Agrawal R/o 106 T.P. Nagar Korba, Tahsil and District Korba (Chhattisgarh)

VERSUS

RESPONDENTS

1. State of Chhattisgarh through Secretary, Department of Transport, DKS Bhawan, Raipur (Chhattisgarh)
2. Regional Transport Officer, Raipur (Chhattisgarh)
3. Regional Sales Manager, S.E.C.L., Korba Area District-Korba (Chhattisgarh)

Writ Petition No. 3100 of 2004

PETITIONER M/s Ram Narayan Agarwal

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Through Shri Ram Narayan Agarwal, S/o Late Ganpath Ram Agarwal, Aged about 53 years, R/o Main Road, Bankimongra, Dist : Korba – (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh Through the Secretary Department of Transport, D.K.S. Bhawan, Raipur, Dist : Raipur (C.G.)
2. Registering Authority Regional Transport Office, Bilaspur – (C.G.)
3. Regional Transport Officer, Bilaspur, Dist : Bilaspur – (C.G.)
4. South Eastern Coalfields Ltd. Through its Chairman-Cum-Managing Director, Seepat Road, Bilaspur (C.G.)
5. The Chief General Manager, South Eastern Coalfields Ltd., Korba (C.G.)

Writ Petition No. 3102 of 2004

Petitioners

1. M/s Ram Narayan Agarwal Through Shri Ram Narayan Agarwal, S/o Late Ganpath Ram Agarwal, Aged about 53 years, R/o Main Road, Bankimongra, Dist : Korba – (C.G.)
2. Dharampal Agarwal S/o Late Ganpath Ram Agarwal, Aged about 50 years, R/o Main Road, Bankimongra, Dist : Korba – (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh Through the Secretary Department of Transport, D.K.S. Bhawan, Raipur, Dist : Raipur (C.G.)
2. Registering Authority Regional Transport Office, Bilaspur – (C.G.)
3. Regional Transport Officer, Korba, Dist : Bilaspur – (C.G.)

Writ Petition No. 3933 of 2004

PETITIONER Satish Agrawal S/o Lt. P.A. Agrawal Agrawal aged about 37 yrs. Resident of Post Office Sagar Nursing Home Gali, Korba (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh through Secretary, Department of Transport, D.K.S. Bhawan, Raipur (Chhattisgarh)
2. Regional Transport Officer, Raipur (Chhattisgarh)
3. Regional Sales Manager, S.E.C.L., Korba Area, District – Korba (Chhattisgarh)

Writ Petition No. 1728 of 2005

PETITIONER Naresh Kumar Agrawal, S/o Raja Ram Agrawal, Aged about 40 yers, R/o Banki-Mongra, Dist. Korba (C.G.)

VERSUS

RESPONDENTS

1. State of Chhattisgarh - Through the Secretary Transport Deptt., Secretariat, Old D.K. Hospital Building, Raipur (C.G.)
2. Registering Authority cum District Transport Officer, Korba, Korba Chhattisgarh.
3. Regional Transport Officer, Bilaspur, Bilaspur Chhattisgarh
4. South Eastern Coalfields Ltd. Through its Chairman-Cum-Managing Director, Seepat Road, Bilaspur (C.G.)
5. The Chief General Manager, South Eastern Coalfields Ltd., Korba (C.G.)

WRIT PETITION No.3448 OF 2005

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PETITIONER Pali Ram Agrawal, S/o Late Hemraj Agrawal, Aged about 50 years, R/o Main Road, Banki – Mogra, Distt. Korba (C.G.)

Versus

RESPONDENTS

1. South Eastern Coalfields Ltd. – Through its Chairman-Cum-Managing Director, Seepat Road, Bilaspur, District Bilaspur (CG)
2. Area Sales Manager, Korba Area, South Eastern Coalfields Ltd., O/o the Chief General Manager, Korba, District Korba (CG)
3. State of Chhattisgarh – Through the Secretary, Transport Department, DKS Bhavan, Raipur
4. Regional Transport Authority, Korba, District – Korba (C.G.)

WRIT PETITION No. 3753 OF 2005

PETITIONER Mayur Thakkar, s/o Shri Praveen Chand Thakkar, aged about 22 years, R/o Main road, Aaduwal, Jagdalpur, Bastar,
C/o Main Road Pali, District Korba (C.G.)

Versus

RESPONDENTS

1. The State of Chhattisgarh, Through – the Secretary, Department of Transport, D.K.S. Bhawan, Mantralay, Raipur
2. The Regional Transport Officer, Raipur, Distt. Raipur (C.G.)
3. The Regional Transport Officer, Bastar Region, Jagdalpur (C.G.)
4. The Regional Sales Manager, SECL, Korba, Area, Distt. Korba (Chhattisgarh)

WRIT PETITION No. 4287OF 2005

PETITIONER Kusheshwer Singh, S/o Nageshwar Singh, Aged about 58 years, Owner of the Tata Truck bearing Registration No. CG-04/G-1558 R/o Amli Para, Raipur, Distt. Raipur (C.G.)

Versus

RESPONDENTS

1. South Eastern Coalfields Ltd. –

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Through its Chairman-Cum-Managing Director, Seepat Road, Bilaspur, District – Bilaspur (CG)

2. Area Sales Manager, Korba Area, South Eastern Coalfields Ltd., O/o the Chief General Manager, Korba, District Korba (C.G.)
3. State of Chhattisgarh – Through the Secretary, Transport Department, DKS Bhavan, Raipur
4. Regional Transport Authority, Raipur, District – Raipur (CG)

WRIT PETITION No.4296 OF 2005

PETITIONERS

1. Satya Narayan Agrawal, S/o Late Shri K.C. Agrawal, Shri Balaji Gas Agency, Transport Nagar, Korba (Chhattisgarh)
2. Subhash Chand Agrawal S/o Late Shri K.C. Agrawal Shri Balaji roadways, 53, Transport Nagar, Korba (Chhattisgarh)
3. Shanker Lal Agrawal, S/o Late Shri K.C. Agrawal Sarwamangala Roadways, 53, Transport Nagar, Korba (Chhattisgarh)

Versus

RESPONDENTS

1. South Eastern Coalfields Limited through Chairman-cum-Managing Director, Seepat Road, Bilaspur (Chhattisgarh)
2. Area Sales Manager, South Eastern Coalfields Ltd. , Korba Area, Office of the Chief General Manager, SECL, Korba Area, Korba (Chhattisgarh)
3. Area Sales Manager, South Eastern Coalfields Ltd.; Gevra Area, Office of the Chief General Manager, SECL, Gevra Area, Korba (Chhattisgarh)
4. Regional Transport Officer, Korba (Chhattisgarh)
5. State of Chhattisgarh th. The Secretary Department of Road Transport, D.K.S. Bhawan Raipur (Chhattisgarh)

WRIT PETITION No.4355 OF 2005

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PETITIONER

1. Jai Prakash Agarwal S/o late Shri Banwariilal Agrawal, aged about 52 years. R/o Agrasen Marg, Korba (C.G.)
2. Gopal Agarwal S/o Shri Late Banwari lal Agrawal, aged about 45 years. R/o Agrasen Marg, Korba (C.G.)
3. Vikash Agrawal, S/o Jai Prakash Agrawal, aged about 27 years. R/o Agrasen Marg, Korba (C.G.)

Versus

RESPONDENTS

1. The State of Chhattisgarh, through – the Secretary, Department of Transport, DKS, Bhawan, Mantralay, Raipur
2. The Regional Transport Officer, Raipur, Chhattisgarh
3. The Regional Sales Manager, SECL, Korba Area, Distt. Korba (Chhattisgarh)
4. The Regional Sales Manager, SECL, Gevra Area, Distt. Korba (Chhattisgarh)

WRIT PETITION No. 4760 OF 2005

PETITIONER

1. Kailashchandra Agarwal, S/o Khemchand Agarwal, R/o 53, Transport nagar, Korba (Chhattisgarh)
2. Subhash Chand Agrawal S/o Late Shri K.C. Agrawal, Shri Balaji Roadways, 53, Transport Nagar, Korba (Chhattisgarh)
3. Shanker Lal Agrawal, S/o Late Shri K.C. Agrawal, Sarwamangala Roadways, 53, Transport Nagar, Korba (Chhattisgarh)

Versus

RESPONDENTS

1. South Eastern Coalfields Limited through Chairman-cum-Managing Director, Seepat Road, Bilaspur, (Chhattisgarh)
2. Area Sales Manager, Soth Easter Coalfields Ltd., Korba Area, Office of the Chief General Manager, SECL, Korba Area, Korba (Chhattisgarh)
3. Area Sales Manager, South Eastern Coalfields Ltd., Gevra Area, Office of the Chief General Manager, SECL,

(Chhattisgarh)

4. Regional Transport Officer, Korba, (Chhattisgarh)
5. State of Chhattisgarh th. The Secretary Department of Road Transport, D.K.S Bhawan Raipur (Chhattisgarh)

WRIT PETITION No.5138 OF 2005

PETITIONER

1. Satya Narayan Agrawal, S/o Late Shri K.C. Agrawal, Shri Balaji Gas Agency, Transport Nagar, Korba, (Chhattisgarh)
2. Smt. Shashi Kala Devi Agrawal, W/o Subhash Chandra Agrawal, Shri Balaji Roadways, 53, Trasnport Nagar, Korba (Chhattisgarh)

Versus

RESPONDENTS

1. South Eastern Coalfields Limited through its Chairman-cum-Managing Director, Seepat Road, Bilaspur (Chhattisgarh)
2. Area Sales Manager, South Eastern Coalfields Limited, Korba Area, Office of the Chief General Manager, SECL, Gevra Area, Korba (Chhattisgarh)
3. Area Sales Manager, South Eastern Coalfields Limited, Gevra Area, Office of the Chief General Manager, SECL, Gevra Area, Korba (Chhattisgarh)
4. Regional Transport Officer, Korba (Chhattisgarh)
5. State of Chhattisgarh, through the Secretary, Department of Road Trasnport, D.K.S. Bhawan, Raipur (Chhattisgarh)

WRIT PETITION No.1416 OF 2006

PETITIONER

1. Rajendra Kumar Rathore, son of Shri Shyam Lal Rathore, aged about 35 years, resident of village Birgahani, Champa, District Janjgir-Champa (C.G.)

Versus

RESPONDENTS

1. The State of Chhattisgarh, through the Secretary, Department of Transport, D.K.S. Bhawan,

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Mantralay, Raipur (C.G.)
2. The Regional Transport Officer, Raipur (C.G.)
3. The Regional Sales Manager, SECL, Korba Area, Distt. Korba (C.G.)
4. The Regional Sales Manager, SECL, Gevra Area, Distt. Korba (C.G.)

WRIT PETITION No. 4133 OF 2005

PETITIONER

1. Ramkaran Agrawal, S/o. Late Kishan Lal AgraWAL, Aged about 59 years, Owner of the Truck Ashok Leyland bearing Registration No.CG-12/ZC-0644, R/o. C/o. Shiv Provision Stores, Banki – Mongra, Distt. Korba (CG)
2. Raj Kumar Agrawal, S/o. Shri Ramkaran Agrawal, Aged about 25 years, Owner of the TATA Truck bearing Registration No. CG-12/ZC-1017 R/o. C/o. Shiv Provision Stores, Banki – Mongra, Distt. Korba (CG)

Versus

RESPONDENTS

1. South Eastern Coalfields Limited through its Chairman-cum-Managing Director, Seepat Road, Bilaspur, District –Bilaspur (Chhattisgarh)
2. Area Sales Manager, Korba Area, South Eastern Coalfields Limited, O/o. Chief General Manager, Korba, Distt. Korba (Chhattisgarh)
3. State of Chhattisgarh – through the Secretary, Transport Department, DKS Bhavan, Raipur.
4. Regional Transport Authority, Korba, District - Korba (Chhattisgarh)

WRIT PETITION No.2591 OF 2005

PETITIONER

1. Ghanshyamlal Agrawal, S/o. Late Banwarilal Agrawal, aged about 45 years, R/o. Banki Mongra, District Korba (C.G.)
2. Madanlal Agrawal, S/o. Late Banwarilal Agrawal, aged about 47 years, R/o. Banki Mongra, District Korba (C.G.)

Versus

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RESPONDENTS

1. The State of Chhattisgarh, through – the Secretary, Department of Transport, D.K.s. Bhawan, Mantralay, Raipur.
2. The Regional Transport Officer, Raipur, Chhattisgarh.
3. The Regional Sales Manager, SECL, Korba, Area, Distt. Korba (Chhattisgarh)

Present : Shri N.L. Soni, Shri Sanjay K. Agrawal, Shri P. Diwakar, Sr. Advocate with Shri P.R. Patankar, Shri B.K. Rawat, and Shri Yogendra Chaturvedi, learned counsel for the petitioners.

Shri N.K. Agrawal, Dy. Advocate General with Shri Yashwant Singh, Govt. Advocate for the State of Chhattisgarh.

Dr. N.K. Shukla, Shri Vinay Harit, Sr. Advocate with Smt. A. Sengupta and Shri N.K. Shrivastava, Shri Praveen Das and Shri Vivek Shrivastava, counsel for the respondents/ SECL.

ORAL ORDER
(Passed on 6th July, 2006)

In this batch of writ petitions, the action of the Regional Transport Officers in altering/changing the maximum gross vehicle weight of the motor vehicle mentioned in the Certificates of Registration has been assailed. The question of law that arises for decision in this batch of writ petition is common and same. The writ petitions were, therefore, clubbed, heard them together and they are being disposed of by this common judgment and order.

(2) The basic facts germane to the decision-making be noted first and they are as follows: The jurisdictional Regional Transport Officers while registering the subject motor vehicles, in violation of the maximum gross vehicle weights specified by the Central Government for various categories of vehicles in the notification issued by it by virtue of the power

granted to it under sub-Section (1) of Section 58 of the Motor Vehicles Act 1988 (for short 'the Act'), fixed the maximum gross vehicle weight which is in excess to and different from that specified in the notification issued under sub-Section (1) Section 58 of the Act. When the jurisdictional Regional Transport Officers subsequently realized that the maximum gross vehicle weights mentioned by them in the Certificates of Registration were not in conformity with the maximum gross vehicle weights specified by the Central Government in the notification issued under sub-Section (1) of Section 58 of the Act, without notice to the petitioners-owners of the motor vehicles, alter the maximum gross vehicle weights in the Certificates of Registration to be in conformity with the maximum gross vehicle weights specified by the Central Government in the notification issued under sub-Section (1) of Section 58 of the Act. At that stage the petitioners approached this Court under Article 226 of the constitution of India by filing these writ petitions seeking intervention of the Court.

(3) On service of notices, the State Authorities as well as S.E.C.L. Authorities put in appearance and contested the writ petitions both on legal issues and on merits by filing their returns.

(4) I have heard learned counsel for the parties. On behalf of the petitioner, Shri N.L. Soni, learned counsel led the arguments. On behalf of the respondents, I have heard Shri N.K. Agrawal, learned Dy. Advocate General for the State Authorities, Dr. N.K. Shukla, Shri Vinay Harit and Shri P. Das on behalf of S.E.C.L.

(5) Shri Soni with his usual persuasion would contend that the unilateral act on the part of the Regional Transport Officers concerned to

the peril of the petitioners-owners of the motor vehicles in altering the maximum gross vehicle weights of the vehicles is not only *per se* illegal but also was in utter violation of the principles of natural justice and fair play in action. Shri Soni would contend that the fair procedure which ought to have been followed before altering the maximum gross vehicle weights was given a go bye by the Regional Transport Officers concerned. Shri Soni would also contend that the procedure adopted by the Regional Transport Officers to alter/change the maximum gross vehicle weights was not in conformity with the provisions of Sections 16, 66, 77, 79 (2) of the Act. Learned Dy. Advocate General appearing for the State Authorities, per contra, drawing attention of the Court to the provisions of Section 58, particularly, the provisions of sub-Section (3) thereof, would contend that the Regional Transport Officers are left with no discretion to fix maximum gross vehicle weights which could be different from that specified in the notification issued by the Central Government under sub-Section (1) of Section 58 of the Act, whereas, admittedly, maximum gross vehicle weights mentioned by the Regional Transport Officers in all these cases were in excess and contrary to the maximum gross vehicle weights specified by the Central Government in the notification issued under sub-Section (1) of Section 58 of the Act and, therefore, the Regional Transports Officers concerned were justified in correcting their own wrong actions by amending, altering, changing the maximum gross vehicle weights erroneously mentioned by them in the Certificates of Registration. Learned Deputy Advocate General would also contend that though no notices were issued to the petitioners-owners of the motor vehicles before changing the maximum gross vehicle weights, no prejudice was caused to any of the petitioners on that account and, therefore, not giving notices to

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the petitioners before changing maximum gross vehicle weights would not render the impugned action illegal.

(6) Having heard the learned counsel for the parties, I am of the considered opinion that there is absolutely no good ground for this Court to grant any relief to the petitioners. On the other hand, it is the considered opinion of the Court that great public mischief/wrong is already caused due to, if I may say so, irresponsible action on the part of the Regional Transport Officers concerned in mentioning the wrong maximum gross vehicle weights in the Certificates of Registration issued by them, which were admittedly in excess of and contrary to the maximum gross vehicle weights specified by the Central Government in the notification issued under sub-Section (1) of Section 58 of the Act.

(7) Sub-Sections (1),(2) and (3) of Section 58 read as follows:

> **"58. Special provisions in regard to transport vehicles.** – (1) The Central government may, having regard to the number, nature and size of the tyres attached to the wheels of a transport vehicle (other than a motorcab), and its make and model and other relevant considerations, by notification in the Official Gazette, specify, in relation to each make and model of a transport vehicle, the [maximum gross vehicle weight] of such vehicle and the maximum safe axle weight of each axle of such vehicle.
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> (2) A registering authority, when registering a transport vehicle, other than a motorcab shall enter in the record of registration and shall also enter in the certificate of registration of the vehicle the following particulars, namely:-
>
> (a) the unladen weight of the vehicle;

(b) the number, nature and size of the tyres attached to each wheel;

(c) the gross vehicle weight of the vehicle and the registered axle weights pertaining to the several axles thereof; and

(d) if the vehicle is used or adapted to be used for the carriage of passengers solely or in addition to goods, the number of passengers for whom accommodation is provided,

and the owner of the vehicle shall have the same particulars exhibited in the prescribed manner on the vehicle.

(3) There shall not be entered in the certificate of registration of any such vehicle any gross vehicle weight or a registered axle weight of any of the axles different from that specified in the notification under sub-section (1) in relation to the make and model of such vehicle and to the number, nature and size of the tyres attached to its wheels:

Provided that where it appears to the Central Government that heavier weights than those specified in the notification under sub-section (1) may be permitted in a particular locality for vehicles of a particular type, the Central Government may, by order in the Official Gazette direct that the provisions of this sub-section shall apply with such modifications as may be specified in the order."

It cannot be gainsaid that under sub-Section (1) of Section 58 of the Act the Central Government has the legal authority to fix maximum gross vehicle weights for various categories of vehicles taking into account the number, nature and size of the tyre attached to the wheels of the vehicle (motor cabs) and its make and model and other relevant considerations.

The notification issued by the Central Government under sub-Section (1) is not questioned. Admittedly, in all these cases, the concerned Regional Transport Officers had mentioned maximum gross vehicle weight which was excess and contrary to the maximum gross vehicle weights specified by Central Government in the notification. For example, in W.P. No.2860/2004, initially the Regional Transport Officer, Raipur had mentioned the maximum gross vehicle weight at 30,000 kilograms (30 tonnes) whereas the subject vehicle in this case falls within the *(iv)* category of vehicles as specified in the Schedule to the notification issued under Section 58 (1) of the Act and therefore, the specified maximum gross vehicle weight is 25 tonnes. Similar position is reflected in each and every other case. If that is so, the initial action of the Regional Transport Officers concerned in mentioning excess gross vehicle weights in the Certificates of Registration was contrary to not only the mandatory provisions of sub-Section (3) of Section 58 but also the notification issued by the Central Government under Section 58 (1) of the Act.

(8) If the above is the finding, next question to be considered is whether the concerned Regional Transport Officers have the power to correct their own mistakes as has been done by the impugned actions. The power of self-correction cannot be denied to the statutory authorities, particularly, to prevent a wrong being committed to the public interest. It cannot be said that the concerned Regional Transport Officers lack legal authority to correct their own wrongs and mistakes.

(9) This takes us to the question whether the concerned Regional Transport Officers before effecting the corrections of the maximum gross vehicle weights in the Certificates of Registration ought to

have given notices to the petitioners-owners and given them opportunity of being heard. If the concerned Regional Transport Officers were to issue notice before amending or correcting the maximum gross vehicle weights, it would have been praiseworthy. But, the question is whether not giving notices to the petitioners before amending maximum gross vehicle weights and not giving them opportunity of being heard would vitiate the impugned action of the concerned Regional Transport Officers has resulted in any prejudice to them. It is well settled that the Constitutional Court need not step in under Article 226 of the Constitution of India wherever and whenever they find violation of principles of natural justice. In order to step in under Article 226, persons who approach this Court for relief are required to show satisfactorily that due to violation or non-compliance with the principles of natural justice, they have suffered a discernible prejudice or legal injury. It is so insisted, because, the principles of natural justice are essentially meant to advance justice and not to thwart justice. In other words, if the Courts were to find that an applicant who complains violation of the principles of natural justice has not suffered any prejudice or legal injury, the Court need not step in under Article 226 of the Constitution of India and entertain the writ application. In the premise of the above well established principle, when I look at the undisputed facts of this case, I am of the considered opinion that no prejudice was caused to the petitioners because of the failure of the concerned Regional transport Officers to issue pre-decisional notices to the petitioners to have their say in the matter. It is the common case of all that the maximum gross vehicle weights fixed by the concerned Regional Transport Officers initially were in excess of the maximum gross vehicle weights specified by the Central Government in the notification issued

under Section 58 (1) of the Act. When this fact is not disputed and could not be disputed, the petitioner cannot be permitted to continue to have the benefit of carrying the excess load in the vehicles to the peril of the public interest and in utter violation of the mandatory provisions of the public law. It was brought to the notice of the Court, at the time of hearing, that having secured specification of the wrong maximum gross vehicle weights in the Certificates of Registration, these transport operators, for years, carried the excess load spoiling the roads. Looking from any angle, I am not inclined to step in under Article 226 of the Constitution and interfere with the corrective measures undertaken by the concerned Regional Transport Officers on the ground that pre-decisional notices were not issued to the petitioners before the maximum gross vehicle weights were amended by the Regional Transport Officers in the Certificates of Registration.

(10) In the result and for the forgoing reasons, I dismiss all the writ petitions. No costs.

Sd/-
Chief Justice

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